United Nations A/51/PV.99

General Assembly
Fifty-first Session

Official Records

99th plenary meeting
Wednesday, 21 May 1997, 10 a.m.
New York

President: Mr. Razali Ismail ..... (Malaysia)

In the absence of the President, Mr. Mahilangan (Philippines), Vice-President, took the Chair.

The meeting was called to order at 10.10 a.m.

Agenda item 144 *(continued)*

Convention on the law of the non-navigational uses of international watercourses

Report of the Sixth Committee convening as the Working Group of the Whole (A/51/869)

Draft resolution (A/51/L.72)

The Acting President: As indicated in operative paragraph 2 of draft resolution A/51/L.72, the text of the draft Convention is contained in paragraph 10 of document A/51/869.

I call on the representative of Japan, who will deliver a statement on behalf of the Chairman of the Working Group of the Whole of the Sixth Committee.

Mr. Takasu (Japan): It is my honour and pleasure to introduce the report of the Sixth Committee, convening as the Working Group of the Whole, for the elaboration of a convention on the law of the non-navigational uses of international watercourses. The Chairman of the Working Group, Ambassador Chusei Yamada of Japan, is unable to be present in New York today and he requested me to present the report of the Working Group on his behalf.

It is appropriate at this juncture to recall briefly that the International Law Commission (ILC), at the request of the General Assembly in 1970, included the topic of the law of the non-navigational uses of international watercourses in its programme of work. Since then, the ILC has been working on this matter; it finally completed its work in 1994 and submitted a final draft to the General Assembly.

The Assembly decided in its resolution 49/52 that the Sixth Committee should convene as a Working Group of the Whole to complete the work on the draft and to prepare it for adoption as a convention. The Working Group held its first meeting in October 1996. It was, however, unable to complete its task that year. The Assembly decided in its resolution 51/206 to extend the mandate of the Working Group. The second session of the Working Group was held in March and April of this year.

Members will also recall that the General Assembly, in extending the mandate of the Working Group, decided that, on the completion of its mandate, the Working Group of the Whole should report directly to the General Assembly. The Working Group has now completed its task and the report of the Working Group is contained in document A/51/869 before the Assembly.

The report of the Working Group is comprised of three parts: Part I, "Introduction", describes the background and the mandate of the Working Group. Part II, "Consideration of proposals", contains a factual

97-85572 (E)

This record contains the original text of speeches delivered in English and interpretations of speeches delivered in the other languages. Corrections should be submitted to original speeches only. They should be incorporated in a copy of the record and be sent under the signature of a member of the delegation concerned, *within one month of the date of the meeting*, to the Chief of the Verbatim Reporting Service, Room C-178. Corrections will be issued after the end of the session in a consolidated corrigendum.

account of all the proposals submitted to the Working Group; it also contains the statements of understanding of which the Chairman of the Working Group took note. Part III of the report, entitled "Recommendation of the Working Group of the Whole", contains the text of the draft Convention on the Law of the Non-Navigational Uses of International Watercourses adopted by the Working Group. The Working Group therefore recommended that the General Assembly adopt the text as a convention.

In this connection, as regards article 34, the dates concerning the opening for signature and the deadline for signing the Convention have been left blank in the report of the Working Group. After informal consultations, it is my understanding that there is a consensus to complete article 34, which is now bracketed, to read as follows:

> "The present Convention shall be open for the signature by all States and by regional economic integration organizations from 21 May 1997 until 20 May 2000 at United Nations Headquarters in New York."

In other words, after having been adopted, the Convention will be open for signature from today for a period of three years.

I have been requested by the Chairman of the Working Group to convey his sincere thanks and gratitude to all the delegations that participated in the Working Group, the coordinators, the Chairman of the Drafting Committee, the Expert Consultant and Special Rapporteurs. The cooperative efforts of all these people culminated in the successful completion of the Working Group.

This concludes my introduction of the report of the Sixth Committee, which convened as the Working Group of the Whole for the elaboration of a convention on the law of non-navigational uses of international watercourses.

The Acting President: I now call on the representative of Mexico to introduce draft resolution A/51/L.72.

Mr. Tello (Mexico) (*interpretation from Spanish*): I have the honour to speak today on behalf of the following States, sponsors of draft resolution A/51/L.72 before the General Assembly for consideration: Antigua and Barbuda, Bangladesh, Bhutan, Brazil, Cambodia, Canada, Chile, Denmark, Finland, Germany, Greece, Hungary, Italy, Japan, Lao People's Democratic Republic, Liechtenstein, Mexico, Malaysia, Nepal, Netherlands, Norway, Portugal, Republic of Korea, Romania, Sudan, Sweden, Syrian Arab Republic, Tunisia, United Kingdom of Great Britain and Northern Ireland, United States of America, Uruguay and Venezuela. I also wish to announce that the following States have joined the list of sponsors published with the draft resolution: Cameroon, Grenada, Honduras, Jordan, Latvia and Viet Nam.

Draft resolution A/51/L.72 provides for the adoption and opening for signature of the Convention on the Law of the Non-Navigational Uses of International Watercourses, an instrument that we are convinced will contribute to the equitable and reasonable use of transboundary water resources and their ecosystems, as well as to their preservation, to the benefit of current and future generations.

The sponsors understand the Convention to form an integral part of draft resolution A/51/L.72 and that it will be annexed to it in its final form. This instrument undoubtedly marks an important step in the progressive development and codification of international law, the promotion of which is a fundamental responsibility of this Assembly. The adoption of the draft text will be the culmination of a lengthy analytical process in which the International Law Commission, which was entrusted with the preparation of the articles, and the States Members and observers of the United Nations participated with keen interest and dedication.

In addition to adopting and opening the Convention for signature, the draft resolution expresses deep appreciation to the International Law Commission for the elaboration of the draft articles that served as the basis of the work of the Working Group of the Whole of the Sixth Committee, and to the special rapporteurs for their contribution to that work.

As the representative of Japan just stated in introducing the report of the Working Group of the Whole of the Sixth Committee, the Convention on the Law of the Non-Navigational Uses of International Watercourses will remain open for signature for a period of three years. The sponsors are convinced that this instrument will contribute to enhancing cooperation and communication among riparian States of international watercourses, and urge all States members of the General Assembly to support draft resolution A/51/L.72.

The Acting President: We have heard the last speaker in the debate on this item. The Assembly shall now proceed to consider draft resolution A/51/L.72.

I shall now call on those representatives who wish to explain their votes before the voting. May I remind delegations that explanations of vote are limited to 10 minutes and should be made by delegations from their seats.

Mr. Mwakawago (United Republic of Tanzania): The United Republic of Tanzania welcomes the opportunity to address the General Assembly on agenda item 144 concerning a draft resolution on the Convention on the Law of the Non-Navigational Uses of International Watercourses, a matter of importance to our country.

The draft resolution before us, in its second preambular paragraph, correctly recalls resolution 2669 (XXV) of 8 December 1970, by which the General Assembly recommended that the International Law Commission (ILC) take up the study of the law of the non-navigational uses of international watercourses with a view to its progressive development and codification. One must wonder, therefore, to what degree the law in this subject has been developed or codified by the draft Convention before us.

In responding to this concern, we would be failing in our duty if we were not to acknowledge and appreciate the useful work undertaken by the International Law Commission, which provided the basis for negotiations within the Sixth Committee. The efforts made by its Rapporteurs in guiding the Committee deserve equal appreciation. It is in this regard that we feel obligated to express particular gratitude to Mr. Robert Rosenstock for his work in the Working Group of the Whole. We also wish to pay tribute to the Chairman of the Working Group, Mr. Chusei Yamada, for his leadership and patience, and to Mr. Hans Lammers for his remarkable leadership in the Drafting Committee. In the end, responsibility for the draft text of the Convention before us and its apparent failings must rest solely with ourselves, the negotiating States.

It will be no exaggeration to say that the draft Convention before us is not perfect and that it could have been better. We are keenly aware that this draft convention is, to an appreciable extent, the product of a deadline. Partly as a result of the constraint of time and partly due to lack of consensus on a number of key provisions, not only did those provisions have to be adopted by a vote, but the draft Convention was itself voted upon. Since this is the background against which the draft Convention comes before us, we would like to highlight some of the difficulties our country is facing with regard to it.

First of all, we continue to consider article 6, regarding factors relevant to equitable and reasonable utilization, as constituting a suitable compromise in the context of interests as diverse as those that exist. We find, however, that the delicate balance contained in the ILC draft text on articles 5, 6 and 7 was undone by the introduction in article 5 of the unspecified and unqualified reference to a demand

> "to tak[e] into account the interests of the watercourse States concerned". (*A/51/869, para. 10*)

Seemingly, this expands the scope of the parameters established under articles 6 and 7 and thus, in our view, introduces an element of uncertainty with considerable consequences to article 6. It is in this regard that the United Republic of Tanzania voted against the Chairman's package on these articles in the Working Group. Our position on the subject remains unchanged.

Secondly, we also find an undue imbalance in the context of the draft Convention — which, admittedly, is a framework instrument, but which, on the one hand, appropriately urges States to take all appropriate measures in due regard to its provisions, while on the other, in quite absolute terms, subjects the freedom of other States to act to the consent of others.

Thirdly, while we welcome basin-wide environmental regulatory measures as a necessary step towards environmental protection, we are concerned that, without addressing the varying capabilities between and among States for monitoring and compliance, the strictness of the provisions of the Convention may in some instances be a veritable barrier for cooperation between such States. We cannot justifiably claim to develop international law while the reality of such consequential aspects, which are central to its application and acceptance, are presented only as obligations without the attendant mechanisms to aid such harmonized application and compliance.

Fourthly, we remain troubled by a general provision requiring non-discriminatory but selective judicial access to persons beyond the jurisdiction of a State. It would be a matter of contradiction of justice were a State to allow such unhindered access to those claiming injury as a result of a right arising under the Convention, while preventing others from seeking redress to its judicial organs on matters other than those prescribed by the draft Convention. Most importantly though, that obligation fails to address constraints facing States in whose jurisdiction

a cause of action is strictly territorial. It is no small wonder, therefore, that obligations which other States have been able to assume only between or amongst themselves, or in a regional context, through elaborate treaties can in the present draft Convention be imposed upon States by the generalities of a single paragraph.

Fifthly, it is noteworthy that, because the draft Convention as presently framed not only preserves but authenticates existing agreements on the non-navigational uses of international watercourses, the extent to which the law on the subject has been codified remains doubtful. The United Republic of Tanzania is, in a number of instances, both an upstream and downstream riparian on watercourses that may be described as international and its expectations were thus in favour of an instrument establishing a common regime.

Lastly, the draft Convention is to enter into force on the ninetieth day following the date of deposit of the thirty-fifth instrument of ratification or accession. Out of the current 185 States Members of the United Nations, a total of 35 represents a mere 18 per cent. This percentage is even lower if regional economic integration organizations are taken into account. Needless to say, the magnitude of this quantitative aspect as a notion of applicability and acceptance leaves a lot to be desired.

On account of these considerations, the United Republic of Tanzania will join those in this Assembly that will not be voting in support of the draft resolution before us.

Mr. Çelem (Turkey): Turkey has requested a vote on draft resolution A/51/L.72, entitled "Convention on the non-navigational uses of international watercourses", since the draft resolution provides for the adoption of a draft Convention which my delegation does not accept.

First, I would like to point out that, as a matter of established practice, the text of the draft Convention under consideration should have been annexed to the draft resolution before us, whereas the draft resolution merely refers to the report contained in document A/51/869, which contains the text of the draft convention. In our belief, this may create an undesired precedent.

However, my delegation has taken note of the statement of the Permanent Representative of Mexico in introducing the draft resolution that the text of the draft Convention contained in the report of the Sixth Committee, convening as the Working Group of the Whole, is an integral part of draft resolution A/51/L.72 and annexed to it.

Also, in the meeting of the Sixth Committee convening as the Working Group of the Whole, my delegation requested a vote on articles 5, 6 and 7 and on the draft Convention as a whole. A separate vote was also requested on articles 3 and 33. Although the articles were separately put to a vote, this fact and the results of the voting have not been reflected in the report of the Sixth Committee. For the proper reflection of these facts in the records of the General Assembly, my delegation would like to state that, in the Sixth Committee meeting, Turkey requested a vote on articles 5, 6 and 7 and that these articles were adopted by 38 votes in favour, 4 against and 22 abstentions. One delegation requested a vote on article 3, and this article was adopted by 36 votes in favour, 3 against and 21 abstentions. Another delegation requested a vote on article 33, and this article was adopted by 33 votes in favour, 5 against and 25 abstentions.

My delegation is not able to accept the draft Convention on the Non-Navigational Uses of International Watercourses as a whole — even though it includes basic principles and concepts on this subject, such as equitable, reasonable and optimal utilization — because of the reservations and objections we have expressed in respect of the preamble and of articles 2 (a) and (b); articles 3, 5, 7, 10; Part III, with the exception of article 11; and articles 22, 23, 32 and 33, for the following reasons:

The draft Convention under consideration today is solely a framework Convention, as reaffirmed by General Assembly resolution A/51/206 and by draft resolution A/51/L.72, which is before us today. The mandate of the Sixth Committee to elaborate a framework convention was established very clearly by General Assembly resolution A/51/206. Accordingly, the draft Convention should have set forth only general principles and its application should have depended upon the drawing up of specific agreements which take into account the particular characteristics of the watercourses. In our view, neither the title nor the content of the draft Convention correspond to this provision of both resolutions.

In this respect, the draft Convention goes far beyond the scope of a framework convention and, in contradiction to its intent and nature, establishes a mechanism for planned measures. This has no basis in general and customary international law. Furthermore, this mechanism creates an obvious inequality between States by stipulating that, in order to implement its planned

measures, a State belonging to a certain category is obliged to obtain the prior consent — tantamount to a veto right — of another State belonging to a certain other category.

It should also be stressed that it is not appropriate for a framework convention to foresee any compulsory rules regarding the settlement of disputes and not to leave this issue to the discretion of the concerned States. Furthermore, the draft Convention does not make any reference to the indisputable principle of the sovereignty of the watercourse States over the parts of international watercourses situated in their territory. The draft Convention should clearly have established the primacy of the fundamental principles of equitable and reasonable utilization over the obligation not to cause significant harm. The present text is liable to create confusion as far as implementation of the whole Convention is concerned.

In conclusion, my delegation would like to state that the Republic of Turkey does not intend to sign the Convention on the Non-Navigational Uses of International Watercourses and that this Convention does not and shall not have any legal effect for Turkey in terms of general and customary international law. For the reasons I have just explained, my delegation will vote against draft resolution A/51/L.72.

I would like this statement to be duly reflected in the records of the General Assembly.

Mr. Camacho Omiste (Bolivia) (*interpretation from Spanish*): The delegation of Bolivia expresses its appreciation to the International Law Commission for its elaboration of the draft Convention on the Law of the Non-Navigational Uses of International Watercourses.

In our view, this draft establishes a balance between the positions and the interests of States. Bolivia participated in the process of negotiating the original draft. Regrettably, however, the balance struck by the International Law Commission was altered by the Working Group. Our delegation was consequently obliged to abstain in the voting on articles 5, 6 and 7, as well as on the final adoption of the draft.

In the context of the submission of the text to the General Assembly for adoption, Bolivia reiterates its reservations expressed in the Working Group and will abstain in the voting.

Mr. Kamal (Pakistan): Pakistan has been actively involved in the Working Group of the Whole, which has prepared this important draft Convention. In view of the delicate technical issues involved, Pakistan and several other interested States made determined efforts to get their legitimate concerns duly reflected in the draft Convention. This effort was not fully successful. The draft Convention has therefore not met with universal approval. Pakistan would like to reiterate its position expressed in the Working Group, and to enter reservations on articles 2, 7 and 33.

In article 2, which deals with definition of the terms used in the draft Convention, Pakistan indicated concerns about the use of term "groundwaters" in subparagraph (a). There are technical difficulties involved in accepting this term. We would have preferred that this term had not been included. While the flow of a river can be measured in precise terms at various gauging sites, such as barrages and dams, it is not possible to do so with groundwaters, which follow an extremely slow movement through porous soil. Consequently, different laws apply to the flow of rivers and groundwaters. As article 2 includes the term "groundwaters", we would like to enter a reservation on it.

In article 7, Pakistan expressed strong objections to the use of the term "significant" before the term "harm". The term "significant" lacks precision and can become a bone of contention when one is considering the type of harm which should or should not be taken into account. One party's definition of "significant" would be different from that of another. This could result in an impasse in any negotiation. We would have gone along with the term "significant" if an obligatory and binding procedure had been incorporated into the draft Convention. As this has not been the case, we would like to enter a reservation on article 7 as well.

Article 33 deals with dispute-settlement procedures. Pakistan favoured obligatory, binding, third-party settlement procedures. We were, however, flexible as regards the choice between the International Court of Justice and arbitration. The mechanism provided in the draft Convention — namely, fact-finding — is not binding on parties. It is therefore not acceptable to Pakistan. Consequently, we also have reservations on article 33.

In view of our reservations on three important articles, and because of the many other shortcomings of the draft Convention, Pakistan will abstain in the voting on the draft resolution.

Mr. Šmejkal (Czech Republic): My delegation welcomes the opportunity to explain its position with respect to agenda item 144, entitled "Convention on the law of the non-navigational uses of international watercourses".

After careful consideration, the Czech Republic will vote in favour of the draft Convention as a whole. This affirmative vote will, however, reflect more our firm and overriding attachment to the overall process of codification and progressive development of international law, rather than a strong conviction that the text of the draft Convention now before us is a fully satisfactory and balanced one which could not have been improved in some of its major aspects.

We made it abundantly clear in our concluding statement after the adoption of the draft Convention in the Working Group of the Whole of the Sixth Committee that our main concerns pertain to articles 7, 5 and 3, on which my delegation felt compelled to abstain during the relevant votes in the Working Group. We also have serious misgivings as to the preamble, in view of the fact that, regrettably, the Working Group finally found it impossible to include language therein recalling the sovereignty of a watercourse State over the part of an international watercourse situated in its territory, in accordance with international law.

Our principal difficulty with the text concerns article 7, which in our opinion fails to formulate in an entirely adequate manner the proper relationship between, on the one hand, the obligation of prevention and abating and, on the other, the fundamental principle of reasonable and equitable utilization set out in articles 5 and 6. Paragraph 2 of article 7 certainly gives a useful indication in this respect, but we regret that the initial and much clearer language using the words "consistent with" could not have been retained, as was the case in the Helsinki Rules on the Uses of Waters of International Rivers of 1966.

As to article 5, we continue to consider that the expression "sustainable utilization" is inappropriate. In this connection, we also note that, as far as the concept of sustainable development is concerned, it has quite properly found an accurate place in part IV of the draft Convention.

Finally, with respect to article 3, we are of the view that it is somewhat lacking clarity and concision as to the relationship between existing and future particular agreements and the draft framework Convention itself. The solutions retained do not seem to depart substantively from the classical ones provided for by the general law of treaties. We consider this satisfactory, but the drafting appears to be unnecessarily complicated and could perhaps even be misleading in some cases.

Under these circumstances, and notwithstanding a vote in favour of the adoption of the draft Convention as a whole, my delegation has, at this stage, to maintain its express reservations regarding these specific parts of the text.

Mr. Gao Feng (China) (*interpretation from Chinese*): This statement was originally to have been made today by the Acting Permanent Representative of China, Ambassador Wang Xuexian. However, he is unable to attend today due to other engagements. I will therefore make this statement in his place.

The Chinese Government appreciates the efforts made by the International Law Commission over the years to draft the articles on the non-navigational uses of international watercourses, and it believes that the draft articles have laid a fairly good foundation for the formulation of an international convention. However, there are obvious drawbacks to some major clauses of the draft Convention, which was hastily adopted by the Working Group of the Whole in April 1997.

First, the draft Convention fails to represent or reflect general agreement by all countries. Quite a number of countries have reservations on its major clauses. This shows that there are considerable differences between countries on these major provisions. It is also rare in the practice of international legislation that nine explanatory statements are attached to the draft Convention. In fact, explanatory statements in conventions is a rather doubtful practice.

Secondly, territorial sovereignty is a basic principle of international law. A watercourse State enjoys indisputable territorial sovereignty over those parts of international watercourses that flow through its territory. It is incomprehensible and regrettable that the draft Convention does not affirm this principle.

Thirdly, in the draft Convention's provisions regarding the rights and obligations of States there is an obvious imbalance between those of States on the upper reaches of an international watercourse and those of States on the lower reaches. This will not facilitate broad acceptance of the draft Convention and will make it difficult to implement.

Fourthly, Article 33 of the United Nations Charter lays down that States may seek a peaceful solution to a dispute by means of their own choice. The compulsory fact-finding dictated by the draft Convention goes against the provisions of the Charter. The Chinese Government favours the settlement of all disputes by peaceful means, through consultations. We are not against fact-finding as an optional means of settlement, but we cannot agree to any mandatory means or procedures for the settlement of a dispute without the consent of the countries parties to the dispute.

On the basis of those considerations, the Chinese delegation will be obliged to vote against the draft resolution contained in document A/51/L.72, by which the Assembly would adopt the draft Convention. The Chinese Government reserves the right to address the question of the non-navigational uses of international watercourses with its neighbours in a fair and reasonable manner and in accordance with relevant international practice and with bilateral watercourse agreements.

Mr. Varso (Slovakia) (*interpretation from French*): The delegation of the Slovak Republic wishes to make the following statement before the vote on draft resolution A/51/L.72, by which the Assembly would adopt the draft Convention on the Law of the Non-Navigational Uses of International Watercourses.

First, in the Working Group of the Whole, last April, my delegation abstained in the vote on the draft Convention, because parts of the text, notably articles 5, 6 and 7, should have better reflected the objective of the draft Convention: the equitable and reasonable non-navigational use of international watercourses by both downstream and upstream States. My delegation's position on this has not changed.

Secondly, we nonetheless stressed that the Slovak Republic generally supports United Nations efforts towards the progressive development and codification of international law with a view to achieving the purposes and implementing the principles of the Charter. My delegation supported the provisions of the draft Convention that were based on the principle of cooperation among States in the use of international watercourses and on respect for the fundamental norms of international law. Here again, my delegation's position has not changed.

Thirdly, since the draft Convention sets out a framework regime that lays down general rules intended to promote equitable and reasonable cooperation between downstream and upstream States in the use of international watercourses, and in the hope that its implementation will make a genuine contribution to the progressive development of international law, the Slovak Republic is in a position to vote in favour of the draft framework Convention.

The Acting President: We have heard the last speaker in explanation of vote before the voting.

The General Assembly will now take a decision on draft resolution A/51/L.72, on the understanding that, as stated by the representative of Mexico, the draft Convention, which is at present contained in paragraph 10 of document A/51/869, will form an integral part of the draft resolution and will be annexed to the draft resolution in its final form.

I would further like to remind members that article 34 of the draft Convention now read as follows:

> "The present Convention shall be open for signature by all States and by regional economic integration organizations from 21 May 1997 until 20 May 2000 at United Nations Headquarters in New York".

I shall now put to the vote draft resolution A/51/L.72. A recorded vote has been requested.

A recorded vote was taken.

In favour:

Albania, Algeria, Angola, Antigua and Barbuda, Armenia, Australia, Austria, Bahrain, Bangladesh, Belarus, Botswana, Brazil, Brunei Darussalam, Burkina Faso, Cambodia, Cameroon, Canada, Chile, Costa Rica, Côte d'Ivoire, Croatia, Cyprus, Czech Republic, Denmark, Djibouti, Estonia, Finland, Gabon, Georgia, Germany, Greece, Guyana, Haiti, Honduras, Hungary, Iceland, Indonesia, Iran (Islamic Republic of), Ireland, Italy, Jamaica, Japan, Jordan, Kazakstan, Kenya, Kuwait, Lao People's Democratic Republic, Latvia, Lesotho, Liberia, Libyan Arab Jamahiriya, Liechtenstein, Lithuania, Luxembourg, Madagascar, Malawi, Malaysia, Maldives, Malta, Marshall Islands, Mauritius, Mexico, Micronesia (Federated States of), Morocco, Mozambique, Namibia, Nepal, Netherlands, New Zealand, Norway, Oman, Papua New Guinea, Philippines, Poland, Portugal, Qatar, Republic of Korea, Romania, Russian Federation, Samoa, San Marino, Saudi Arabia, Sierra Leone, Singapore,

Slovakia, Slovenia, South Africa, Sudan, Suriname, Sweden, Syrian Arab Republic, Thailand, Trinidad and Tobago, Tunisia, Ukraine, United Arab Emirates, United Kingdom of Great Britain and Northern Ireland, United States of America, Uruguay, Venezuela, Viet Nam, Yemen, Zambia

Against:

Burundi, China, Turkey

Abstaining:

Andorra, Argentina, Azerbaijan, Belgium, Bolivia, Bulgaria, Colombia, Cuba, Ecuador, Egypt, Ethiopia, France, Ghana, Guatemala, India, Israel, Mali, Monaco, Mongolia, Pakistan, Panama, Paraguay, Peru, Rwanda, Spain, United Republic of Tanzania, Uzbekistan

Draft resolution A/51/L.72 was adopted by 103 votes to 3, with 27 abstentions (resolution 51/229).

[Subsequently, the delegations of Belgium, Nigeria and Fiji informed the Secretariat that they had intended to vote in favour]

The Acting President: I shall now call on those representatives who wish to explain their votes. May I remind delegations that explanations of vote are limited to 10 minutes and should be made by delegations from their seats.

Mr. Legal (France) *(interpretation from French)*: France, along with 26 other delegations, abstained in the voting on the resolution adopting the Convention on the Law of the Non-Navigational Uses of International Watercourses. It was obliged to do so, but with great regret, as this question is of the greatest importance and is very high on our list of priorities, particularly within the context of the follow-up of the Rio Conference on Environment and Development. The text produced, however, is not up to the expectations that this matter had raised. Negotiated in haste, it is carelessly drafted and imbued with a spirit of partisanship.

A small group of people surrounding the Chairman of the Working Group, the Chairman of the Drafting Committee and the Special Rapporteur of the International Law Commission on, attempted to reduce negotiations to a minimum so as to achieve the adoption of a contractual document within the space of a few days, regardless of its contents. If they succeeded in doing so, it was only because of the indifference to this undertaking demonstrated by most of the Members of the United Nations. This is borne out by the fact that only 42 States voted in favour of the text in the Sixth Committee. More than a third of the countries that participated in the discussion abstained or voted against it.

For its part, France has made efforts to promote the idea of serious negotiations allowing for the achievement of broad agreement on a balanced text. It succeeded in obtaining agreement that after the end of the first session, in which such an achievement had not been possible, a second session would be held. But its appeal to seek a compromise was not adequately heeded.

The haste demonstrated by the Chairman of the Working Group was reflected in serious procedural irregularities that tarnished the credibility of the result obtained. I note, for example, the fact that the draft Convention submitted by the Chairman to the Working Group for adoption was not regularly circulated in various languages, resulting in continuing uncertainties with regard to the original text, which was adopted. It should also be pointed out that the Chairman, during the last meeting of the Working Group, refused to put to a vote a procedural motion regarding respect for the rules of procedure. He also denied delegations the right to explain their positions before the voting on the draft text.

Those serious hindrances to the calm atmosphere that should prevail during an exercise of codification and development of international law could not be justified by any particular sense of urgency. They resulted, as we might expect, and as other speakers have noted, in the adoption of a text with shortcomings in both its form and its content. The Convention that has just been adopted is, in fact, clearly weighted in favour of the interests of downstream States. Thus, it seems unfortunately ill-suited to reducing the existing tensions in various geographic zones between States with international rivers flowing through them.

It also contains regrettable legal ambiguities, in particular with regard to the system of responsibility. On the other hand, some articles are overdeveloped and too binding, such as that dealing with the regulation of disputes. Finally, conclusions are not clearly enough drawn with regard to the juridical nature of the instrument, which is that of a framework convention that is, an agreement that has no autonomous effect.

France therefore views the negotiations that are concluding today as a relative failure, which is regrettable

since, with a greater desire for compromise and the willingness of the Bureau to embark on serious negotiations, it certainly would have been possible to finalize a satisfactory text. As a substantive contribution to the legal system, we consider this to be insignificant, while it is a step backwards with regard to the methods for the codification of international law. We therefore believe that the work of finding internationally acceptable solutions to legal problems relating to international watercourses and their non-navigational uses should be pursued in other forums. France remains ready to participate fully.

Mr. Shah (India): My delegation deeply regrets that, on such an important issue as the non-navigational uses of international watercourses, the General Assembly is once again bypassing the importance of consensus. We regret that the Convention on this important issue has not been adopted by consensus. We share the view agreed in the International Law Commission that this is a framework Convention that should not be prescriptive in nature. It should leave the watercourse States to evolve and implement mutually agreeable terms in respect of the particular international watercourses concerned. Unfortunately, in some of its provisions the present Convention has deviated from this agreed approach, and consequently it is not balanced enough to accommodate differing interests and promote wider acceptability of the Convention.

We have reservations specifically on articles 3, 5, 32 and 33 of this Convention. Article 3 fails adequately to reflect the principle of freedom, autonomy and the right of States to conclude international agreements on international watercourses without being fettered by the present framework Convention. I wish to recall that my delegation therefore abstained on this article in the Working Group. Article 5 was not drafted in clear and unambiguous terms stating the right of a State to utilize an international watercourse for non-navigational purposes in an equitable and reasonable manner. Moreover, the convention has superimposed the concept of sustainable utilization on the principle of optimal utilization, without defining what sustainable utilization is in the present context. International environmental regimes contain certain essential elements such as transfer of technology, resources and technical expertise to promote capacity-building among developing countries. None of these elements is elaborated in the present Convention. Article 5 in its present form is vague and difficult to implement. My delegation therefore abstained in the Working Group on the package of articles 5, 6 and 7.

Article 32, dealing with non-discrimination, presupposes political and economic integration among the States of a region. As all watercourse regions are not so integrated, this provision will be difficult to implement in certain of them. Hence, in the view of my delegation, it did not merit inclusion in the Convention. Article 33, dealing with settlement of disputes, contained an element of compulsion insofar as it envisages the creation of a fact-finding commission. In our view, any procedure for peaceful settlement of disputes should leave the parties to the dispute to choose freely, and by mutual consent, a procedure acceptable to them. My delegation is opposed to the imposition of any mandatory third-party dispute-settlement procedure upon a State without its consent. In any case, such a provision on a fact-finding commission is inappropriate for inclusion in a framework convention such as this. Accordingly, in view of the particular importance India attaches to the peaceful settlement of disputes and free choice of means, my delegation voted against this provision when it was put to the vote in the Working Group of the Sixth Committee. Had this article 33 been put to the vote now in the General Assembly, my delegation would again have voted against it.

For these reasons, my delegation cannot support, and has been constrained to abstain in the voting on, the adoption of the Convention on the Law of the Non-Navigational Uses of International Watercourses.

Mr. Nega (Ethiopia): My delegation abstained in the voting on the resolution just adopted. We took this position because we believe that the text of the Convention, to be annexed to the resolution and opened for signature, falls short of achieving the required balance, in particular in safeguarding the interests of upper riparian States such as Ethiopia. This is evident in most of the provisions of the Convention, and particularly with regard to article 7 and part III of the Convention on planned measures, which put an onerous burden on upper riparian States.

Although there was considerable opposition to part III and a number of amendments were suggested to create a balance and lessen the obligations to be assumed by upper riparian States, there was no serious desire to accommodate such suggestions. As a result, we have been forced to register our reservations on the whole of part III and some of its specific provisions.

With regard to article 3, it was the wish of my delegation to see that existing agreements contravening substantive principles of the Convention be harmonized

with the present Convention. Instead, this article is adopted in such a way that States may, only if they so desire, consider harmonizing such agreements with the basic principles of the present Convention. Moreover, the provision in that article which allows watercourse States and watercourse agreements to adjust the provisions of the Convention to the characteristics of a particular watercourse will undermine the applicability of the Convention as it stands now to all types of international watercourses without due regard to their particular characteristics. It should be the specific watercourse agreements that should be adjusted to the basic principles of the Convention not of the other way around. For this and other reasons, my delegation was not able to accept article 3 of the Convention in its present form.

With regard to articles 5, 6 and 7, my delegation would have liked to see the primacy of article 5 clearly established, as was proposed by the International Law Commission in its draft. However, this proposal has been tampered with by the Working Group of the Whole. It is the view of my delegation that the well-established right of equitable utilization in the Convention was the only reason and incentive for any upper riparian country in the position of Ethiopia to accept the Convention. In the absence of this clearly defined right, the Convention will mean very little to these countries. The rest of the Convention, in most cases, is tilted towards the lower riparian States and imposes obligations on upper riparian States which appear burdensome and difficult to meet, particularly by a developing country such as Ethiopia.

With regard to article 7, my delegation wishes to reiterate its strong reservation. While reserving its sovereign right to the use of the waters of its international watercourse, Ethiopia did not want to vote against the adoption of this Convention and has abstained, in the belief that the Convention might serve as a useful first step in encouraging and guiding the negotiations among watercourse States with a view to reaching specific watercourse agreements that would ensure equitable allocation and utilization of the waters of their international watercourses and to promoting cooperation in this regard.

Mrs. Mekhemar (Egypt) (*interpretation from Arabic*): The delegation of the Arab Republic of Egypt, which participated actively in the deliberations that took place in the Sixth Committee and in the Working Group of the Whole, joins other delegations in welcoming the adoption of this Convention, which regulates the non-navigational uses of international watercourses. This Convention represents the culmination of the efforts made by the International Law Commission over a 20-year period.

We hope that the adoption of this Convention will constitute an important step in enhancing the role of the General Assembly in the codification and progressive development of international law, with a view to promoting international peace and security and upholding the rule of law in the international community as it stands on the threshold of the twenty-first century.

The delegation of the Arab Republic of Egypt would like on this important occasion to clarify certain points of principle.

First, although the framework Convention adopted today involves a codification of the norms of international customary law, some of its provisions are entirely new regulations that do not modify international customary law. Our delegation would like to emphasize that the provisions on which we expressed our reservations in the course of discussions cannot later be invoked against the Arab Republic of Egypt, even if future developments were to prompt some Member States to view these as constituting customary law.

Second, the Arab Republic of Egypt believes that the framework Convention does not prejudice in any way the legal weight and value of established customary law regarding the sharing of the waters of international watercourses and their non-navigational uses.

Third, this framework Convention cannot affect the status of bilateral or multilateral agreements relating to certain rivers, not only because of the general rules of the international law of treaties but also, and more importantly, because any argument to the contrary would open a Pandora's box that could have unknown consequences for many parts of the world.

Fourth, we do not believe that the expression "international watercourse" is inconsistent with the very concept of the basin of an international river. Rather, it is a part of it, and therefore the use of this new term cannot under any circumstances affect the rights and obligations acquired under bilateral or regional international agreements or the established norms and relations among States on various international river spaces.

Fifth, the delegation of Egypt, while emphasizing the principle of the equitable sharing of international waters, has reservations on the final version of article 5 of the

Convention. We stress the need to link this principle with the obligations of the States of a given river not to cause significant harm.

Sixth, the factors relative to equitable and reasonable utilization of waters set out in article 6 must not supersede or replace established factors set out in customary international law.

Seventh, the delegation of the Arab Republic of Egypt considers that the provisions of article 7 do not affect the established principle of customary international law, as affirmed by the International Law Commission since its creation, that the exercise of one's rights should do no harm to others. This obligation dictates that the rights of others must not be affected with respect to the utilization of watercourses.

Eighth, we stress that the framework nature of this Convention means that it is a set of principles and general articles that govern the non-navigational uses of international watercourses. The full or partial implementation of these must be subject to the complete agreement and consent of all parties sharing the watercourse in question. By its very nature, the framework Convention should not be applied immediately to water resources in a river basin. Any specific agreements should take into account the special geographic, climatic, historical and hydrological characteristics of a given river, as well as previous bilateral and multilateral agreements and the customary uses of its water resources. Under the norms of general law, such provisions must take precedence over the articles of the framework Convention.

Since the dawn of Egyptian civilization, the Arab Republic of Egypt has enjoyed the benefits of the immortal Nile; we have always eagerly called for cooperation with the sister countries that share the Nile basin, on the basis of the established norms of international law. We hope that the adoption of the new Convention will promote better cooperation among the States of the Nile basin, in the context of relevant international agreements, established regional customs and customary international practice, some of the rules and principles of which have been codified in the Convention. All of thus must take place with complete mutual respect for agreed rights and obligations, in an atmosphere of the sincere and positive cooperation that makes the Nile river an artery of life linking its nations and encouraging them to develop and preserve its resources in the interests of present and future generations.

Ms. Kidron (Israel): The delegation of Israel wishes to thank Ambassador Yamada for his excellent work as Chairman of the Working Group of the Whole, conducting the negotiations smoothly and efficiently. Nevertheless, for a number of reasons Israel abstained in the vote on the adoption of the Convention on the Law of the Non-Navigational Uses of International Watercourses. I wish to take this opportunity to state Israel's position on those issues which cause it concern.

With regard to article 3, Israel believes that the Convention does not affect existing agreements. States also have full freedom in negotiating and entering into new agreements, provided, of course, that these agreements do not adversely affect other States.

Israel supported the compromise reached with regard to articles 5, 6 and 7. Nevertheless, as explained in its explanation of vote given during the adoption of the draft text by the Working Group of the Whole, Israel would have preferred a more explicit balance between the principle of no harm and the principle of reasonable and equitable utilization. Neither principle should be subservient to the other, and the balance between them should be made on the basis of the specific circumstances and needs.

With regard to article 10, it is the position of Israel that, among the vital human needs as defined in the statement of understanding pertaining to this article, one factor should have greater importance than others, and that is the adequate supply of drinking water. Israel is pleased that, as it has mentioned in its previous interventions, during the negotiations a number of other delegations supported this view.

With regard to article 33, Israel believes that, as a matter of principle, States must settle their disputes peacefully. However, the means of settling a dispute must be left to their agreement. The parties to a dispute must be allowed to choose the mechanism which is most appropriate for their specific needs and circumstances.

Mr. Sánchez (Spain) (*interpretation from Spanish*): The delegation of Spain was obliged to abstain in the vote on the resolution by which the Assembly adopted the Convention on the Law of the Non-Navigational Uses of International Watercourses; the position we expressed in the meetings of the Working Group of the Whole remains unchanged.

In our view, article 7, relating to the obligation not to cause significant harm in utilizing international watercourses, is among the most important in the Convention. It has always been our understanding, however, that this obligation cannot be dissociated from the cardinal principle of equitable and reasonable utilization as set out in articles 5 and 6. If a watercourse is utilized in conformity with this principle, it is unfair to oblige a watercourse State to eliminate or mitigate significant harm and or even less to discuss the question of compensation with affected States.

This, in our view, is one of the most significant consequences of articles 5 and 6; to our mind, such consequences should have been addressed clearly and decisively in article 7. The wording of article 7 — "having due regard for the provisions of articles 5 and 6" — is not sufficiently explicit, and could give rise to friction and disputes when the Convention is implemented.

Given the key role of that article, my delegation was obliged to abstain in the vote.

Mr. Habiyaremye (Rwanda) (*interpretation from French*): The delegation of Rwanda abstained in the vote on draft resolution A/51/L.72, as it did in the vote in the Sixth Committee convened as the Working Group of the Whole. We are grateful to the International Law Commission for having prepared draft articles of a convention on such a sensitive subject as the management of water resources; above all, we appreciate the endeavours of Ambassador Chusei Yamada of Japan and his delegation. Our gratitude goes also to Mr. Hans Lammers for the manner in which he guided the work of the Drafting Committee; it is thanks to his fine work that we did not vote against the draft resolution today. We thank also all the coordinators of the informal consultations.

The inconsistencies and imbalances in the draft resolution gave rise to the reservations we expressed in the Working Group. Let me reaffirm the most important of these, which were mentioned by most of the previous speakers. I refer to the lack of reference to the sacrosanct principle of the sovereignty of States. Hence, we continue to have reservations about the whole of part III of the Convention, entitled "Planned measures", as well as about article 33, "Settlement of disputes". We also have reservations about article 2, specifically about the inclusion in the scope of the Convention of groundwaters and international watercourses.

In our view, this Convention is flawed and requires immediate correction. My delegation is open to any initiatives to that end.

The Acting President: We have heard the last speaker in explanation of vote.

In connection with the resolution just adopted, I should like again to remind delegations that the Convention will be annexed to the resolution in its final form.

May I take it that it is the wish of the General Assembly to conclude its consideration of agenda item 144?

It was so decided.

Agenda item 8 *(continued)*

Adoption of the agenda of the fifty-first regular session of the General Assembly, allocation of items and organization of work

Fifth report of the General Committee (A/51/250/Add.4)

The Acting President: I now draw the attention of representatives to the fifth report of the General Committee, concerning a request by the Netherlands for the inclusion in the agenda of an additional item, "Cooperation between the United Nations and the Organization for the Prohibition of Chemical Weapons".

In paragraph 2 of the report, the General Committee decided to recommend to the General Assembly that the item entitled "Cooperation between the United Nations and the Organization for the Prohibition of Chemical Weapons" should be included in the agenda of the current session. May I take it that the General Assembly decides to include in the agenda of the current session this additional item?

It was so decided.

The Acting President: The General Committee further decided to recommend to the General Assembly that the additional item, which is now agenda item 167, should be considered directly in plenary meeting. May I take it that the General Assembly decides to consider this item directly in plenary meeting?

It was so decided.

Mr. Biegman (Netherlands): I should like to make a request. Since the fifty-first session of the General Assembly may not reconvene for several weeks, and since, as I stated earlier, the question of the relationship between the United Nations and the Organization for the Prohibition of Chemical Weapons (OPCW) is of an urgent nature, I therefore respectfully submit the formal proposal that the item just included on the agenda of the General Assembly be considered today after the other items on today's agenda have been dealt with. Under that new item, the Netherlands will then submit a draft resolution on the relationship between the United Nations and OPCW, to be adopted by the General Assembly.

The Acting President: I should now like to consult the Assembly with a view to proceeding to the consideration of agenda item 167, entitled "Cooperation between the United Nations and the Organization for the Prohibition of Chemical Weapons", as the last item of this meeting.

I call on the representative of the Syrian Arab Republic on a point of order.

Mr. Abou-Hadid (Syrian Arab Republic): I should like to request a clarification in view of the hasty presentation of this draft resolution and the request by the representative of the Netherlands. Allow me to state that this item should be dealt with in a manner that would give us time to study this draft resolution, of which we have an unofficial version. Therefore we should not consider for adoption any draft resolution on this item at this meeting.

The Acting President: I draw the attention of the representative of the Syrian Arab Republic to the fact that the draft resolution has not yet been presented by the sponsor, who is proposing at this time that this item be taken up towards the end of this meeting, as the last item on the agenda. I hope I have clarified matters for the representative of Syria.

Mr. Abou-Hadid (Syrian Arab Republic): I need further clarification. Are we going to take action on this draft resolution today as the last item of this meeting?

The Acting President: I must point out that we are considering only whether this item will be taken up towards the end of this meeting. We are not taking up the draft resolution as such. Perhaps I can call on the representative of the Syrian Arab Republic when the time comes.

I call on the representative of Lebanon on a point of order.

Mr. Hamdan (Lebanon) (*interpretation from Arabic*): My delegation would like to state that consideration of any item on the agenda, even if it is added at the last minute, would require that some documentation be made available to all delegations in advance. We are not expressing reservations regarding consideration by the General Assembly of this item, but we do wish to express our concern at the fact that there are no documents relating to this item. Even if the item is taken up towards the end of this meeting, it makes us uncomfortable to do so without any documents. We request an explanation for this, following which we will state our formal position on the matter.

The Acting President: I have been advised that unless we take a decision on whether we should take up this agenda item, no documents can be distributed at this point. Thus, the first decision we have to make now is whether we should take up this agenda item as part of the agenda of this meeting. Then we can come to the point of documentation.

Have I made myself clear to the representative of Lebanon? All we have to do now is to decide upon the proposal of the Netherlands that we take up this agenda item at the end of this meeting.

I call on the representative of Lebanon on a point of order.

Mr. Hamdan (Lebanon) (*interpretation from Arabic*): The delegation of Lebanon certainly understands the position of the Secretariat, which is very sound and appropriate.

However, we remain concerned because we do not know whether the documents to be circulated will be distributed in a manner that would allow us to consider and examine them without undue haste. We would therefore like to study these documents so that we can decide whether we are ready to participate in the discussion on this important subject on such short notice.

The Acting President: I should like to ask the representative of Lebanon a direct question: Does the representative of Lebanon have any objection under rule 15 to the inclusion of this item on the agenda, as recommended by the General Committee, for immediate consideration?

Mr. Hamdan (Lebanon) (*interpretation from Arabic*): In principle, we are not opposed to the inclusion of this important item on our agenda. However, we view with concern the fact that it would be considered immediately. In fact, Sir, I cannot answer your question unless I am able to examine the documents, which will determine our reaction in regard to the discussion of this item.

The Acting President: I take note of the concern of the representative of Lebanon, but this is only a procedural question. The representative of Lebanon can voice his objections when we take up the item.

If I hear no further objection, may I take it that the Assembly agrees with the proposal of the representative of the Netherlands?

It was so decided.

The Acting President: The Assembly shall therefore proceed accordingly.

I should also like to inform members that, in connection with agenda item 167, a draft resolution under the symbol A/51/L.73 is now being distributed to delegations.

Request for the reopening of the consideration of agenda item 97 (a) (Implementation of the decisions and recommendations of the United Nations Conference on Environment and Development)

Letter from the Chairman of the Second Committee (A/51/901)

The Acting President: By the letter dated 16 May 1997 from the Chairman of the Second Committee addressed to the President of the General Assembly (document A/51/901), the Assembly is referred to the report of the Intergovernmental Negotiating Committee for the Elaboration of an International Convention to Combat Desertification in Those Countries Experiencing Serious Drought and/or Desertification Particularly in Africa, on the first part of its tenth session, which is contained in document A/52/82. Section B of appendix II to that report contains a draft decision entitled "Use of the Special Voluntary Fund and the Trust Fund", which was recommended to the General Assembly for adoption.

In the light of the importance of this decision in ensuring the full and effective participation of developing countries affected by desertification and drought, in particular the least developed countries, in the first Conference of the Parties, to be held in Rome from 29 September to 10 October 1997, the Chairman of the Second Committee requests that the consideration of sub-item (a) of agenda item 97, entitled "Implementation of the decisions and recommendations of the United Nations Conference on Environment and Development", be reopened in order to take appropriate action on this draft decision at the earliest date.

May I take it that the General Assembly, on the proposal of the Chairman of the Second Committee, wishes to reopen the consideration of sub-item (a) of agenda item 97?

It was so decided.

The Acting President: Representatives are aware that sub-item (a) of agenda item 97 was allocated to the Second Committee. However, in order for the General Assembly to consider the draft decision as soon as possible, may I take it that the General Assembly wishes to consider sub-item (a) of agenda item 97 directly in plenary meeting?

It was so decided.

The Acting President: The General Assembly will consider the sub-item just reopened at a future meeting of the Assembly.

Agenda item 18 (*continued*)

Appointments to fill vacancies in subsidiary organs and other appointments

(h) Appointment of members of the Joint Inspection Unit

Note by the President (A/51/109)

The Acting President: As indicated in document A/51/109, in accordance with the procedures described in article 3, paragraph 1 of the statute of the Joint Inspection Unit, having consulted the regional groups concerned and on the basis of the candidates submitted by the African, Eastern European, Latin American and Caribbean and Western European and other States, as well as through a consultation by secret ballot with the General Assembly, I requested Algeria, the Dominican Republic, Italy, Jordan and the Russian Federation to propose candidates.

As further indicated in document A/51/109, as a result of consultations in accordance with article 3, paragraph 2, of the statute of the Joint Inspection Unit, including consultations with the President of the Economic and Social Council and with the Secretary-General in his capacity as Chairman of the Administrative Committee on Coordination, I now submit to the Assembly the candidatures of Mr. Fatih Bouayad-Agha (Algeria), Mr. Homero Luis Hernández Sánchez (Dominican Republic), Mr. Eduard Kudriavtsev (Russian Federation), Mr. Francesco Mezzalama (Italy) and Mr. Khalil Issa Othman (Jordan) for appointment as members of the Joint Inspection Unit for a five-year term of office beginning on 1 January 1998 and expiring on 31 December 2002.

May I take it that it is the wish of the General Assembly to appoint those candidates?

It was so decided.

The Acting President: May I take it that it is the wish of the General Assembly to conclude its consideration of sub-item (h) of agenda item 18?

It was so decided.

(i) Confirmation of the appointment of the Administrator of the United Nations Development Programme

Note by the Secretary-General (A/51/896)

The Acting President: In paragraph 22 of its resolution 1240 (XIII), Part B, of 14 October 1958 on the establishment of the Special Fund, the General Assembly provided that the Secretary-General, after having consulted the Governing Council of the Special Fund, would appoint the Managing Director, subject to confirmation by the Assembly. This procedure has been construed as applying also to the appointment of the Administrator of the United Nations Development Programme.

By its decision 47/327 of 15 June 1993, the General Assembly confirmed the appointment by the Secretary-General of Mr. James Gustave Speth as Administrator of the United Nations Development Programme for a four-year term of office beginning on 16 July 1993.

Following consultations with members of the Executive Board of the United Nations Development Programme, the Secretary-General now requests the General Assembly to confirm the appointment of Mr. James Gustave Speth as Administrator of the United Nations Development Programme for a further four-year term of office beginning on 16 July 1997.

May I take it that the General Assembly approves this proposal?

It was so decided.

The Acting President: The Assembly has thus concluded its consideration of sub-item (i) of agenda item 18.

Agenda item 19 (*continued*)

Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples

Letter from Bolivia (A/51/862)

The Acting President: In connection with this item, I should like to draw the attention of the General Assembly to a letter dated 3 April 1997 from the Chargé d'affaires *ad interim* of the Permanent Mission of Bolivia to the United Nations addressed to the President of the General Assembly (A/51/862).

By his letter, the Chargé d'affaires informs the President of the wish of the Government of Bolivia to become a member of the Special Committee on the Situation with regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples.

As delegations are aware, in accordance with General Assembly resolution 1654 (XVI) of 27 November 1961, members of the Special Committee are nominated by the President of the General Assembly. After consultations with regional groups, the President of the General Assembly has nominated Bolivia as a member of the Special Committee on the Situation with regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples.

May I take it that the Assembly takes note of this nomination?

It was so decided.

The Acting President: May I take it that it is the wish of the General Assembly to conclude its consideration of agenda item 19?

It was so decided.

Agenda item 167

Cooperation between the United Nations and the Organization for the Prohibition of Chemical Weapons

Draft resolution (A/51/L.73)

The Acting President: In accordance with the decision taken earlier at this meeting, the General Assembly will now consider agenda item 167.

I call on the representative of the Netherlands to introduce draft resolution A/51/L.73.

I call first, however, on the representative of Lebanon on a point of order.

Mr. Hamdan (Lebanon): I wish to know whether, by the rules of procedure, we ought to make a motion regarding rule 78 before or after the draft resolution is introduced.

The Acting President: Such a motion should be made following the introduction of the draft resolution.

I call on the representative of the Netherlands.

Mr. Biegman (Netherlands): I have the pleasure of introducing a draft resolution (A/51/L.73) on the relationship between the United Nations and the Organization for the Prohibition of Chemical Weapons (OPCW). The role and importance of the OPCW with regard to the implementation of the aims and objectives of the Chemical Weapons Convention are well known. The purpose of this draft resolution is twofold. First, it is to invite the Secretary-General to take steps to conclude with the Director-General of the Technical Secretariat of the Organization for the Prohibition of Chemical Weapons an agreement between the United Nations and the OPCW to regulate the relationship between the two organizations. As members may know, the first session of the Conference of the States Parties to the Convention appointed by acclamation Mr. José Maurício Bustani of Brazil as the first Director-General of the OPCW. I extend my congratulations to Brazil on this appointment.

The need for negotiations on a relationship agreement stems from the fact that the Chemical Weapons Convention stipulates a special link with the General Assembly and the Security Council. Cases of particular gravity and urgency may be brought directly to the attention of these United Nations organs.

The general agreement between the United Nations and the Organization for the Prohibition of Chemical Weapons (OPCW) would be applied provisionally upon signature, pending the completion of procedures necessary for its entry into force. It goes without saying that the Secretary-General will have to submit the agreement to the General Assembly for its approval. A similar procedure, I might add, was followed in the case of the International Seabed Authority.

Secondly, the draft resolution seeks to authorize the Secretary-General to enter into a temporary arrangement with the OPCW concerning the issuance of United Nations laissez-passers to OPCW inspectors. This arrangement would apply pending the conclusion of the overall agreement between the United Nations and the OPCW. The use of United Nations laisšez-passers is of vital importance for the OPCW inspectors in the discharge of their essential duties on the territories of some Member States.

The Netherlands believes there is very wide support for the present draft resolution. The Netherlands delegation has consulted with members of all the regional groups, and the initiative has received broad support. The draft resolution is at this moment sponsored by 54 delegations. Armenia, Bangladesh, Belarus, India, Liechtenstein and Uruguay have also expressed the wish to sponsor this draft resolution. During its last session, the Preparatory Commission for the OPCW, in which 94 United Nations Member States participated, invited all OPCW member States to sponsor or support a draft resolution like the one we are presenting today.

So we would hope that the draft resolution could be adopted today without a vote.

The Acting President: I would like to suspend the meeting for 10 minutes to allow delegations to have consultations.

The meeting was suspended at 12.10 p.m. and resumed at 12.30 p.m.

The Acting President: Following consultations, I propose that the Assembly continue the consideration of agenda item 167 tomorrow, Thursday, 22 May, at 3 p.m., here in Conference Room 3.

The meeting rose at 12.30 p.m.